

RGS LEGISLATION REVIEW

There is a range of legislation and senior government policy direction that affects the regional growth strategy and the direction the review process can, and should, take. Some of the legislation directly impacts on the content of the RGS, for example regions with growth strategies must follow the relevant provisions of the *Local Government Act*, and, as a result of Bill 27, they must also reflect greenhouse gas emission targets and policies by 2011.

REGIONAL PLANNING LEGISLATION IN BC:

Regional planning boards were first established by the Province of British Columbia through the 1948 *Town Planning Act*. In 1965, the province created regional districts and gave them authority for developing regional plans. However, the regional land use planning authority was abolished in 1983 by the Province due to local-regional land use conflicts. In June 1995, the provincial government passed the *Growth Strategies Statutes Amendment Act*, as an attempt to re-instate a form of regional planning but in a manner that placed far fewer limits on local autonomy. The legislation - now contained in the *Local Government Act*, Part 25 emphasized consensus-building and partnerships and avoided the pre-1983 two-tier system of planning control.

The *Local Government Act* Part 25 legislation outlines the subjects that can be addressed within a growth strategy, the process for adopting and amending a growth strategy, how growth strategies should relate to local plans and the process for resolving disputes.

In general, the *Act* promotes an agreement-seeking approach to regional level issues rather than compliance. The *Act* does not provide regional mechanisms to enforce local implementation, nor does it provide penalties for non-compliance, which is consistent with the provincial desire to promote agreement and local autonomy rather than regulation. Agreements to a regional growth strategy are developed through approval of the strategy itself and through municipal regional context statements. Inter-jurisdictional commitments to RGS implementation may also be contained in implementation agreements.

To date, nine of the 28 regional districts have adopted or initiated growth strategies:

- GVRD/Metro - adopted February 1996
- Thompson Nicola RD – adopted May 2000
- Central Okanagan RD – adopted June 2000
- Nanaimo RD – adopted (update) June 2003
- Capital RD – adopted August 2003
- Fraser valley RD – adopted October 2004
- Squamish Lillooet RD – initiated 2003
- Okanagan Similkameen RD – initiated Spring 2004
- North Okanagan RD – initiated Spring 2007

Government Roles & Responsibilities: According to the *Local Government Act*, development of a regional growth strategy is a responsibility shared by provincial, regional and municipal governments. The province established the legislative framework and introduced the regional context statement and

implementation agreement mechanisms. The relevant provincial ministries get involved through the Intergovernmental Advisory Committee (IAC) where they identify provincial interests and opportunities for supporting regional objectives. According to section 870, the province may also develop policy guidelines regarding the content of growth strategies and OCPs, although this mechanism has not yet been utilized.

Municipalities contribute to the development of the RGS and assume responsibility for much of the implementation through land use policy and development approval actions. Municipalities are expected to develop regional context statements which indicate how they will work toward the regional objectives in a manner appropriate to their local context. These statements are submitted to the regional district Board for approval.

The regional district assumes lead responsibility for initiating, coordinating, developing and adopting the regional growth strategy. It must also monitor the progress and the challenges associated with the on-going implementation of the strategy. A regional growth strategy becomes binding on a regional district following adoption. As such, the regional district assumes responsibility for ensuring that its bylaws and services, including the activities of the electoral areas, are consistent with the growth strategy.

Purpose: The *Local Government Act* states that the purpose of a regional growth strategy is to “promote human settlement that is socially, economically, and environmentally healthy and that makes efficient use of public facilities and services, land and other resources.”

Minimum Content: According to section 850, a regional growth strategy must include:

- At least a 20 year planning horizon
- 20 year population & employment projections
- A statement on the future of the region, including economic, social and environmental objectives
- Regional actions to address the needs of the projected population in the area of transportation, housing, regional district services, parks and natural areas and economic development

Area: A regional growth applies to the entire regional district except for areas under the Islands Trust (gulf islands). Upon request, the Minister may grant authority to limit the application of the regional district to only a part of the regional district; or may authorize 2 or more regional districts to develop a single growth strategy.

Voluntary versus Required: Undertaking a regional growth strategy is usually a voluntary process. In some cases, the Minister may order a regional district to prepare a regional growth strategy (S.852) but this provision is usually limited to areas experiencing a significant change in its composition, population or economic development.

Acceptance: A regional growth strategy must be reviewed by each affected local government, which includes the member municipalities, the adjacent regional district, and the minister. Each municipality must indicate (by council resolution) whether it accepts or does not accept the growth strategy. The dispute resolution process is triggered when the first municipality indicates refusal of the growth strategy.

Effect: A regional growth strategy is binding on the regional district (and electoral areas), meaning all bylaws adopted by a regional district following RGS adoption and all services undertaken must be

consistent with the regional growth strategy. The growth strategy is not binding on the member municipalities except through the provisions of their regional context statements (RCS). Once a municipality has a regional context statement in place, it cannot adopt an OCP amendment that is contrary to the provisions of the RCS.

Regional Context Statements (RCS): Regional Context Statements are required under section 866 of the Local Government Act. They provide the main link between the regional growth strategy and municipal official community plans. The act requires any municipality subject to a regional growth strategy to develop a RCS which identifies the relationship between the OCP and the growth strategy and how the OCP will be made consistent with the growth strategy over time.

The province developed the regional Context statement as the mechanism to link local and regional plans. The regional context statement is included within the OCP, becoming part of the OCP and binding on the municipality. The RGS itself is not binding on the municipality, except through the provisions of the regional context statement.

The regional context statements are prepared by each municipality within the regional district and are submitted to the regional board for acceptance. The Board has considerable latitude to determine what constitutes an acceptable context statement. It is the responsibility of the Board to review the regional context statement against the provisions of the RGS and determine whether to accept or refuse it. As with the RGS there is a maximum review period and a dispute resolution process associated with the context statements.

There is also a requirement in the legislation (section 866.4) for municipalities to review and update their regional context statements at least every 5 years or resubmit for continued acceptance

Provincial Involvement:

The regional growth strategy process is designed to engage and reflect a range of provincial interests. The Act requires that an Intergovernmental Advisory Committee (IAC) be established to obtain input on provincial interests. As well the Act provides for inter-jurisdictional implementation agreements to guide the implementation of the regional growth strategy. According to LGA Section 870, the province may also develop policy guidelines regarding the content of growth strategies and OCPs although this mechanism has not yet been utilized.

The growth strategy legislation includes 14 goals which represent the provincial interests in growth strategies. They include:

1. Avoiding urban sprawl and ensuring that development takes place where adequate facilities exist or can be provided in a timely, economic and efficient manner;
2. Settlement patterns that minimize the use of automobiles and encourage walking, bicycling and the efficient use of public transit;
3. The efficient movement of goods and people while making effective use of transportation and utility corridors;
4. Protecting environmentally sensitive areas;
5. Maintaining the integrity of a secure and productive resource base, including the agricultural and forest land reserves;
6. Economic development that supports the unique character of communities;
7. Reducing and preventing air, land and water pollution;
8. Adequate, affordable and appropriate housing;

9. Adequate inventories of suitable land and resources for future settlement;
10. Protecting the quality and quantity of ground water and surface water;
11. Settlement patterns that minimize the risks associated with natural hazards;
12. Preserving, creating and linking urban and rural open space including parks and recreational areas;
13. Planning for energy supply and promoting efficient use, conservation and alternative forms of energy; and
14. Good stewardship of land, sites and structures with cultural heritage value.

Amendment Process:

The process to amend a regional growth strategy is the similar to that required to develop and adopt a regional growth strategy. Any change, regardless of scale or consequence must go through a 120 day review process and achieve unanimous consent from the affected local governments. The intent behind the process is two-fold: it discourages amendments in order to retain the integrity of the inter-jurisdictional agreement, and it ensures local interests are considered and protected.

Bill 27 Minor Amendment Process: Regional districts can now make minor amendments to a RGS without triggering the full referral and acceptance process. *Local Government Act*, section 857.1 now includes provisions for a minor amendment process. The provisions must include:

- criteria for defining and determining what constitutes “minor”;
- the means for notifying affected local governments and providing opportunities for input;
- procedures for adopting the minor amendment bylaw;
- the provisions regarding public hearings for the RGS are also modified. Regional districts have the authority to decide to send the RGS or RGS amendment to public hearing or not.

Bill 27 also changes the procedures related to the use of the Minister-appointed facilitator in the RGS dispute resolution process. Local governments can now request a minister-appointed facilitator to assist in resolving issues raised during the development of the regional context statement (not just the RGS).

The RGS amendment process is arguably one of the more challenging aspects of the RGS legislation. Many regions with growth strategies, and those contemplating the development of a growth strategy, have expressed concern with the amendment process. (The Capital Regional District is one of the few regional districts who have gone through a formal amendment process). The process identified a number of concerns:

- It is very time consuming for the regional district and the member municipalities due to the facilitation, council meetings and report requirements;
- The Ministry of Community Development controls a lot of the timing and procedural aspects, including the hiring of a mediator or facilitator, which are not always responsive to local needs;
- The onerous amendment process contributes to a “watering down” of RGS content to avoid future amendments and/or over-generalizing the regional context statements to avoid regional involvement in local land use issues.

The provisions of Bill 27 provide the regional district with a number of options for addressing the shortcomings of the RGS amendment process. Responses could include:

- Develop the Master Implementation Agreement (as proposed in the 2003 RGS) and through that agreement, outline the criteria and process for RGS amendments;
- Develop a “minor” amendment process and a “major” amendment process and reflect the requirements, criteria and process in a revised RGS;

- Utilize the provisions of Bill 27 to change the amendment process so that all amendments, regardless of scale, are dealt with through the regional board according to agreed-to requirements, procedures and criteria and reflect these in a revised RGS (this approach is similar to that proposed by Metro Vancouver which establishes two-thirds voting requirement and detailed criteria to deal with RGS amendments).

PROVINCIAL LEGISLATION & THE RGS/RSS

The provincial government has established a number of strategies and plans - elements of which should be considered for incorporation into an integrated sustainability strategy. These include:

- B.C. Climate Action Plan & related climate change plans
- Living Water Smart Plan
- B.C. Energy Plan
- B.C. Transit Plan
- B.C. Air Action Plan
- Agricultural Land Reserve

B.C. Climate Action Plan (2008)

The provincial government has established new legislation to address the challenges of climate change. The focus of much of the legislation is on reducing the human-generated greenhouse gas emissions.

The impetus behind much of the focus on GHG emissions is the work of the United Nations Intergovernmental Panel on Climate Change (IPCC) which found that human impacts over the last 30 years have raised average global temperatures, influenced extreme weather events and altered many physical and biological systems. According to the IPCC's latest report (Climate Change 2007) in order to minimize the negative impacts of climate change, greenhouse gas emissions must be reduced by 50% to 80% from 2000 levels by year 2050.

This provincial plan outlines strategies and initiatives to take BC approximately 73 percent towards meeting the goal of reducing greenhouse gas emissions by 33 percent by 2020. The Climate Action Plan is based on four pillars:

- firm targets for reducing Greenhouse gas emissions. To date the province has committed to a 33 percent reduction in GHG emissions from 2007 levels by 2020. It has set interim targets of 6 percent below 207 levels by 2012 and 18 percent by 2016;
- policy measures to reduce carbon emissions including a revenue-neutral carbon tax, participating in regional cap and trade systems, emission standards on vehicles, landfill gas emission standards, fuel standards, and green community development;
- strategies to assist BC communities adapt to the effects of climate change;
- education and awareness programs.

The CRD and member municipalities will be affected both directly (e.g. Bill 27) and indirectly (Bill 44) by the provincial climate change legislation, which includes:

BC Climate Action Charter (2007)

The Province introduced the BC Climate Action Charter to work collaboratively with signatory local governments and the Union of British Columbian Municipalities (UBCM) to positively affect climate change. Local governments voluntarily chose to sign the BC Climate Action charter. By signing the charter the signatory local governments are committing to three things:

- being carbon neutral in their corporate operations by 2012
- measuring their community wide GHG emissions
- developing compact complete communities

Carbon neutrality is intended as an annual goal; it is not linked to a base year and is not subject to a target. Local governments are expected to reduce their carbon emissions as much as possible and offset the remaining emissions.

Bill 27 – 2008 – Local Government (Green Communities) Statutes Amendment Act

Bill 27 provides local governments with tools to help them reduce greenhouse gas emissions conserve energy and work towards creating more compact and sustainable communities. Of relevance to the regional growth strategy is the requirement to establish targets to reduce greenhouse gas emissions in the RGS. The RGS must also include policies and actions for achieving the targets. The required content comes into force by May 31, 2011 (a year later than the requirement for official community plans).

Section 850 (2) is amended to add the paragraph:

(d) to the extent that these are regional matters, targets for the reduction of greenhouse gas emissions in the regional district, and policies and actions proposed for the regional district to achieving those targets.

The inclusion of targets, policies and actions is mandatory and not tied to the carbon neutral corporate emissions commitment of the Climate Action Charter. The targets, policies and actions are a legislated requirement. The purpose of the requirement is to reduce overall community greenhouse gas emissions through better land use planning.

Bill 44 – GHG Reduction Targets Act (2008)

The Province has legislated a provincial public sector target for greenhouse gas emissions through Bill 44 that does not apply to local governments. As part of its Climate Action Plan the BC Government has legislated a 33% reduction in province-wide greenhouse gases (GHG) emissions by 2020 and 80% by 2050.

Greenhouse gas (GHG) include carbon dioxide (CO₂), methane (CH₄), nitrous oxide (N₂O) and fluorinated gases.

expressed as CO₂ equivalent (CO₂e). This is a method of measuring GHG emissions, which is associated with three key items:

- GHG produced from the burning of fossil fuels to generate electricity
- GHG associated with transportation and the burning of fossil fuels to power road motor vehicles
- GHG produced through the decomposition of organic matter in landfills

Fossil fuel includes coal, oil, natural gas and petroleum. Energy is measured in Gigajoules (GJ) related to GHG. This is equivalent to 170 kilolitres of petrol, or about 10 litres of diesel or gasoline (about 5.29).

Greenhouse gas emissions are measured in tonnes of CO₂ equivalent (tCO₂e). The tone of CO₂e from the burning of 100 litres of gasoline

Bill 10 - The Housing Statutes Amendment Act (2008)

This Bill augments jurisdiction for buildings by allowing local governments to enact bylaws regulating buildings for the purposes of addressing energy and water efficiency and for reducing GHG emissions.

This Act will not have direct application to the RGS/RSS but will enhance the implementation opportunities for the member municipalities.

CRD Community Energy Plan

The CRD Board initiated the Community Energy Plan (CEP) process in October 2003. The CEP uses the vision established in the RGS which came out of the Framework for our future process:

A region that is economically vital, where communities are livable, where the environment and natural resources are stewarded with care, and where residents enjoy a healthy and rewarding quality of life. Fundamental to these aspirations is a commitment to work toward regional sustainability.

The CEP follows the five step process established by the Partners for Climate Protection program and sanctioned by the federation of Canadian Municipalities (FCM) which includes:

- Completion of an energy consumption and GHG emissions inventory
- Establishment of energy and GHG reduction targets
- Establishing a regional action plan
- Implementation
- Monitoring progress

The CRD inventory revealed that total energy consumption in the region (2004) was 32.2 millions of GJ (an increase of 4.9% from 1995)

Total GHG emissions (2004) were 1.53 millions of tones of CO₂e (a decrease of 14% from 1995).

The CEP report (February 28, 2007) emphasized the importance of sustainable land use and transportation approaches. Transportation comprised 53% of the region's GHG sources.

Challenges & Opportunities

Regional growth strategies can influence greenhouse gas emission reductions by encouraging more energy efficient land use and by promoting sustainable transportation choices. The RGS emphasis on growth containment and compact urban form is important because sprawling land use patterns are known to create climate change impacts because they add to GHG emissions through increased auto use and energy expended to provide services, such as water, sewer, energy and waste management as people, goods and services have to be delivered over longer distances. The 2003 RGS identified the need to examine resource needs and impacts in the region more fully by including the following action:

The CRD, The Vancouver Island Health Authority, and member municipalities agree to jointly undertake, within five years of the adoption of the Regional Growth Strategy, a review of the long term strategic resource needs in the Capital Region – including food, water, and aggregate materials. This project will investigate long-term demand, security of supply; potential impacts of factors such as long-term climate change and fossil fuel depletion, and make policy and program recommendations to ensure future needs are successfully anticipated and met.

There are a number of opportunities through the RGS/RSS review process to address the climate change challenge. These could include:

- Reflecting the provincial target in the RGS/RSS and suggesting initiative to work toward the target
- Identifying the appropriate responses that should be reflected in the municipal regional context statements
- Re-emphasizing the need for mixed use centres, transit-oriented developments and walkable communities for both livability and GHG reduction purposes
- Developing additional mitigation indicators as part of the RGS monitoring program
- Identifying the need for the development of a regional climate change strategy – to be developed as a RGS/RSS sub-strategy (similar to the TravelChoices Strategy and the Regional Housing Affordability Strategy).

Living Water Smart Plan

Living Water Smart Plan is the Provincial government's plan for managing water resources over the long-term. The plan recognizes the need to greatly improve water efficiency: Canada's per capita water consumption is 65 percent above the Organization for Economic Cooperation and Development (OECD) average – second only to the U.S. The plan also recognizes the need for local governments to improve efficiency in demand and in infrastructure provision: According to the Water Smart Plan 80% of provincial funding to local governments is for water-related infrastructure. As such, the provincial position is that demonstrable climate change adaptation strategies and reduced environmental impact will be a condition for receiving provincial infrastructure funding

The plan emphasizes:

- improved watershed management in priority areas
- enhanced water conservation and improved efficiency
- secured access to water on ALR lands combined with a requirement to increase water use efficiency
- better protection of ecological values
- a commitment to improving drinking water quality in aboriginal communities
- strengthened commitment to riparian area protection – particularly as a climate change adaptation strategy

The Living Water Smart Plan also contains a number of targets, including:

By 2012:

- all students in B.C. will have completed at least one stream-health assessment
- the province will regulate groundwater use in priority areas and large groundwater withdrawals

By 2010, the government will mandate purple pipes in new construction for water collection and re-use. *Household purple pipes are a second set of plumbing that captures rainwater and recycles leftover water from dishwashers, sinks and showers.*

By 2020:

- water use in B.C. will be 33 percent more efficient
- Fifty percent of new municipal water needs will be acquired through conservation

The plan also states that strategies for adapting to climate change and reducing environmental impact will be a condition for receiving provincial infrastructure funding. To that end, the RGS/RSS can reflect the appropriate water-centric planning principles which can help reinforce the region's water demand management programs and watershed protection initiatives. At present, the RGS has a policy which restricts the extension of water services beyond the regional urban containment boundary. The intent of this policy is to prevent sprawl development; however, it has not been particularly successful in reducing un-serviced sprawl and has had little impact on water efficiency.

B.C. Energy Plan

The BC Energy Plan is designed to make the Province energy self sufficient by 2016 while taking into consideration the natural environment and climate impacts. The Plan includes both conservation efforts as well as use of innovative clean energy technologies. Most of the provisions of the energy plan are specific to senior levels of government, although the government provides support to local communities through the Community Action on Energy Efficiency Program.

BC Air Action Plan

The goal of this plan is to improve air quality across the province. The plan addresses clean transportation, clean industry and clean community planning. It places particular emphasis on particulate matter (PM) pollutants released into the air through the burning of wastes. The Plan encourages local governments to address air-shed planning.

Provincial Transit Plan (2008)

This provincial plan establishes the goal of doubling transit ridership across the province by 2030. The plan supports the development of transit-oriented development along key corridors and increased population and employment densities at transit hubs. The plan includes a funding commitment of \$1.2 billion for RapidBus BC service along 9 major routes within Metro Vancouver, Kelowna and Victoria. The transit targets established for the Victoria Regional Transit system are: an increase in transit market-share from 7.5% today to 9.5% by 2020 and 12% by 2030.

Agricultural Land Reserve

The Agricultural Land Reserve (ALR) is a provincial zone in which agriculture is recognized as the priority use. Farming is encouraged and non-agricultural uses are controlled. The ALR includes private and public lands that may be farmed, forested or vacant land – but have potential for agricultural production.

The ALR takes precedence over, but does not replace other legislation and bylaws that may apply to the land. Local and regional governments, as well as other provincial agencies are expected to plan in accordance with the provincial policy of preserving agricultural land. The Agricultural Land Commission Act sets the legislative framework for the establishment and administration of the agricultural land preservation program.

The RGS currently reflects the location of ALR lands within the *Renewable Resource Lands* designation and supports the protection of ALR and farm activities over the long term. The ALR also functions as a de-facto urban growth boundary throughout many areas of BC.

Farm Practices Protection Act:

The Farm Practices Protection Act (Right to Farm) Act is complementary to the ALR farm land preservation program. This Act, which came into effect in 1995, gives farmers the right to farm in the ALR and on land zoned for farm use. The Act protects farmers that are using normal farm practices from nuisance lawsuits and nuisance bylaws of local governments. The Act also establishes a process to resolve concerns and conflicts. The Act is administered by the Ministry of Agriculture, Food and Fisheries.

Regional Sustainability Strategy:

As a result of the legislation brought in by the Province, the region will be increasingly challenged to develop coordinated approaches to responding to the new policy directions and targets. The RGS 5-year review – and the proposed development of the Regional Sustainability Strategy provide the opportunity to address the new legislative environment in a more efficient manner:

- **Better integrate land use, transportation and climate change strategies:** the RGS process can be used to go beyond its current focus on the management of residential growth – and instead create a broad regional planning framework that addresses a number of large-scale, cross-boundary issues associated with transportation, watershed management, food supply, climate change, and the like. Transitioning the RGS to a broader regional sustainability strategy will help the region better align regional and provincial mandates and strategic priorities. Development of a more integrated strategy will also help meet the provincial and federal requirements for accessing infrastructure funds.
- **Enhance the inter-jurisdictional focus:** The RGS/RSS can be used to reflect provincial-local concerns to a greater extent than it does now. The member municipalities can use the RGS process to reflect areas of shared concern in order to strengthen the voice of the region’s communities on provincial matters.
- **Collectively address the social and economic sustainability challenges facing this region:** The region will likely face significant challenges resulting from the projected demographic and labour force projections. The increase in older, non-working population may challenge conventional assumptions regarding development and housing preferences and revenue sources. As the CRD will experience the effects of an aging population sooner than most places in Canada, the region will need to work closely with business and service agencies to track changes and develop solutions to an environment of rising service demands, limited labour force and constrained tax revenues.